

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

HATEM MORRAR,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 08 C 151
	)	
MICHAEL CHERTOFF, Director, Department	)	
of Homeland Security, and ROBERT S.	)	Judge Nordberg
MUELLER, III, Director, Federal Bureau of	)	
Investigation,	)	
	)	
Defendants.	)	

**ANSWER**

The United States of America, by Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, on behalf of defendants Michael Chertoff, Director, Department of Homeland Security, and Robert S. Mueller, III, Director, Federal Bureau of Investigation, for its answer to the complaint, states as follows:

**First Defense**

The complaint fails to state a claim upon which relief can be granted.

**Second Defense**

The court does not have subject matter jurisdiction over the allegations in the complaint.

**Third Defense**

Plaintiff's complaint asserts that the court has jurisdiction under 8 U.S.C. §1447(b). However, 8 U.S.C. § 1447(b) does not provide the court with jurisdiction. This is a pre-interview case which requires a name check by the FBI before Citizenship and Immigration Services ("CIS")

can schedule an interview for plaintiff. In other words, section 1447(b) provides plaintiff judicial relief *only after* he has been interviewed by CIS.

#### **Fourth Defense**

Answering the specific allegations of the complaint, the United States admits, denies, or otherwise avers as follows:

1. **Complaint:** This is a civil action brought pursuant to 8 U.S.C. section 1329, and 28 U.S.C. Sections 1331 and 1361, and Section 1447(b) to redress the deprivation of rights, privileges and immunities secured to Plaintiff, by which statutes jurisdiction is conferred, to compel Defendant to perform a duty Defendant owes to Plaintiff, 5 U.S.C. section 704 also confers jurisdiction.

**Response:** Deny. 8 U.S.C. § 1447(b) does not provide the court with subject matter jurisdiction over plaintiff's complaint

2. **Complaint:** Venue is proper under 28 U.S.C. section 1391(b), since Defendant is the Director of the Bureau of Citizenship and Immigration Services (BCIS), an agency of the United States Government, under the Department of Homeland Security. The Defendant Robert S. Mueller III, is the Director of the Federal Bureau of Investigations.

**Response:** Admit.

3. **Complaint:** Plaintiff, Hatem Morrar is a 25 year of native of Palestine. He became a Legal Permanent Resident of the United States on September 1, 2001.

**Response:** Admit.

4. **Complaint:** Plaintiff's alien number is **A#047-917-872.**

**Response:** Admit.

5. **Complaint:** Defendant, MICHAEL CHERTOFF, is the Director of the Department of Homeland Security. As such, he is charged with the duty of administration and enforcement of all the functions, powers, and duties of Bureau of Citizenship & Immigration Services, the former INS. The Defendant Robert S. Mueller III, is the Director of the Federal Bureau of Investigations.

**Response:** Admit.

6. **Complaint:** On November 27, 2006 Plaintiff filed his application for Naturalization for U.S. Citizenship, paid the appropriate filing fee.

**Response:** Admit.

7. **Complaint:** On December 21, 2006 the Plaintiff was requested to have his Biometrics completed and fingerprints taken which was successfully completed.

**Response:** Admit.

8. **Complaint:** That since the filing of the Application for Naturalization which was filed on November 27, 2006, the Plaintiff has never been scheduled for an Interview for Naturalization and has been advised that his application is delayed due to his background check which must be cleared before an interview is scheduled.

**Response:** Admit.

9. **Complaint:** Prior to the filing of this Complaint, the Plaintiff has made several attempts with the Defendant to inquire about the status of his application, the Plaintiff or his attorneys have made numerous oral and written requests of the Defendant concerning a final adjudication of said applications. No further action was taken by Defendants in this matter.

**Response:** The government is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph nine. Further, CIS neither tracks nor records customer service inquiries in its administrative records.

10. **Complaint:** The Defendant, in violation of the Administrative Procedure Act, is unlawfully withholding or unreasonably delaying a decision on the applications of Plaintiff.

**Response:** Deny.

11. **Complaint:** Plaintiff has exhausted any remedies that may be exist.

**Response:** Deny.

**WHEREFORE**, the United States requests that the case be dismissed with costs and that the court grant such further relief as may be appropriate.

Respectfully submitted,

PATRICK J. FITZGERALD  
United States Attorney

By: s/ Pierre C. Talbert  
PIERRE C. TALBERT  
Assistant United States Attorney  
219 South Dearborn Street  
Chicago, Illinois 60604  
pierre.talbert@usdoj.gov